

**Short Title: Non-commercial Requests to Inspect Department Records & Fees for Copies**

This substantive policy statement is advisory only. A substantive policy statement does not include internal procedural documents that only affect the internal procedures of the agency and does not impose additional requirements or penalties on regulated parties or include confidential information or rules made in accordance with the Arizona Administrative Procedure Act. If you believe that this substantive policy statement does impose additional requirements or penalties on regulated parties you may petition the agency under ARS 41-1033 for a review of the statement.

**Description of Practice/Procedure:** Arizona's public record statute, A.R.S. § 39-121, provides: "Public records and other matters in the office of any officer at all times during office hours shall be open to inspection by any person."

Contact the Custodian of Records, Arizona Department of Real Estate, 2910 N. 44<sup>th</sup> Street, Suite 110, Phoenix, AZ 85018, to request an appointment to review, or in writing to request copies of, any file of record at The Department. If the request is for numerous files or a requested file is stored off-site, additional time may be required. Fees charged to ADRE for retrieval will be passed on to the requesting party. The charge for photocopies of records is published in the ADRE Fee Schedule available on the ADRE web site: [www.azre.gov](http://www.azre.gov), for non-commercial use, except in response to any Subpoena Duces Tecum. Fees for certification of copies, fees for employment histories, and other similar services are also published in that Schedule.

The following sets out the minimum number of days typically required for files to be retrieved and any restricted information to be redacted:

3-5 day advance notice for: salesperson, broker, school, instructor or course file.

3-5 days advance notice for: audit inspection or hearing/disciplinary file.

5-7 days advance notice for: recovery fund files; public report files (for: subdivisions, time-shares, membership campgrounds, & unsubdivided land); cemetery applications; and **closed** investigative files.

The Department will deny public inspection of a particular document if: 1) the document is made confidential by statute; 2) the document involves the privacy interests of persons; 3) disclosure would be detrimental to the best interests of the state; 4) it is correspondence between the Attorney General's Office and the Department, or any other document, that contains information protected under attorney / client privilege; 5) it is criminal history record information; or 6) it is a written offer to settle or compromise, or is correspondence related to settlement of administrative actions by the Department; 7) it is an internal memorandum regarding regulated parties and case strategy; and 8) it is an instrument of the internal deliberative process.

The Department will deny public inspection or reproduction of information and documents in open (active or pending) audits and investigations, unless the Commissioner authorizes disclosure of the information or production of documents as being in the public interest. Such open files remain confidential until the matter is final, a notice of hearing is issued, or the matter is settled by consent order.

The following information shall be redacted: a licensee's date of birth and Social Security Number; and in some circumstances, the residence address of a licensee.

**Authority:** The authority to charge a fee for copying is at A.R.S § 39-121.03. Fees for copies required by

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a Subpoena Duces Tecum are set by Arizona Rules of Civil Procedure. The authority to withhold specific documents from the Department's public record is cited for the following types of documents: correspondence between the Attorney General's Office and the Department as well as advice given to the Department from the Attorney General's Office pursuant to A.R.S. § 12-2234; criminal history record information pursuant to A.R.S. § 41-1740; written offers to settle or compromise administrative actions by the Department; all correspondence related to settlement negotiations pursuant to Rule 408, Arizona Rules of Evidence; and memoranda, both interoffice & intra-office, to the Commissioner, either directly or through the supervisory chain of command, of an advisory or consultative nature pursuant to the deliberative process privilege. The authority to keep confidential all information and documents in an open audit file or investigation file is found at A.A.C. R4-28-1303. The authority to redact certain data from the Department's records before they are produced includes: dates of birth pursuant to *Scottsdale Unified School District v. KPNX*, 191 Ariz. 297, 955 P.2d 534 (1998); Social Security Numbers pursuant to 42 USC § 405 (c)(2)(C)(viii)(I). See S.P.S. 2005.03 relative to restricted release of home addresses.

Policy Program: Administration; Administrative Actions; Education & Licensing; Investigations & Audits; Subdivision Compliance.

Effective Date: 6/18/1999; Revised & Renumbered 5/28/04; Renumbered 4/01/2005; Revised 8/21/2006.